

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of
Northern State Power Company d/b/a
Xcel Energy for a Certification of Need to
Establish an Independent Spent Fuel
Storage Installation at the Monticello
Generating Plant

PREHEARING ORDER

This matter came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick on May 9, 2005, at 9:00 a.m. at the Minnesota Public Utilities Commission ("Commission").

Andrew Brown, Attorney at Law, Dorsey & Whitney, LLP, 50 South Sixth Street, Suite 1500, Minneapolis, MN 55402 appeared on behalf of Northern State Power Company d/b/a Xcel Energy (Xcel).

Stephen Rakow, Rates Analyst for the Minnesota Department of Commerce (Department) and Julia Anderson, Assistant Attorney General, 445 Minnesota Street, Suite 1400, Saint Paul, MN 55101, appeared on behalf of the Department.

John Wachtler, Project Manager for the Minnesota Environmental Quality Board (EQB) and Dwight Wagenius, Assistant Attorney General, 445 Minnesota Street, Suite 900, Saint Paul, MN 55101, appeared on behalf of the EQB.

George Crocker, Executive Director of the North American Water Office (NAWO), P.O. Box 174, Lake Elmo, MN 55042, appeared on behalf of NAWO.

Elizabeth Goodpaster, Staff Attorney of the Minnesota Center for Environmental Advocacy, 26 East Exchange Street, Suite 206, Saint Paul, MN 55101, appeared on behalf of Minnesotans for an Energy Efficient Economy (ME3).

David Jacobson, Utilities Analyst, appeared on behalf of the Commission staff.

Based on the discussions during the prehearing conference, and all of the files and proceedings, the Administrative Law Judge makes the following:

ORDER

1. The parties to this matter as named in the Commission's Notice and Order for Hearing of April 7, 2005 (Order for Hearing) are Xcel and the Minnesota Department of Commerce (Department). No petitions for intervention have yet been filed.
2. The final date for filing Petitions to Intervene is July 8, 2005. Any persons petitioning to intervene after that date may be restricted as to the scope of their participation.
3. Any person admitted to this proceeding as an intervenor after the date of this Order shall be bound by the terms of this Order.

SCHEDULE

4. The following schedule is adopted:

Intervention Deadline	July 8, 2005
Xcel and Department Direct Testimony (and EIS)	September 16, 2005
All Other Parties' Direct Testimony	October 14, 2005
Discovery Request Deadline	November 1, 2005
Rebuttal Testimony (all parties)	November 14, 2005
Public Hearings (Monticello 1 and 7 p.m.)	November 21, 2005 (and Nov. 22, if needed)
Public Written Comment Deadline	November 28, 2005
Evidentiary Hearings (including Metro-area public hearings)	November 29 - December 2, 2005 (with any additional dates to be determined)
Initial Briefs	(Date to be announced at conclusion of hearing)
Reply Briefs and Proposed Findings	(Date to be announced at conclusion of hearing)

5. Public hearings will be held in Monticello and the Twin Cities Metro-area. The notice of the Monticello public hearing will reference only November 21, 2005 at 1:00 p.m. and 7:00 p.m. The following day will be reserved for presentations that

cannot be accommodated on November 21. If all the persons present seeking to comment on this matter are heard on November 21, the public hearing in Monticello will be concluded and the hearing will not be reconvened on November 22. The dates and times for the Twin Cities Metro-area public hearings will be determined in advance of the hearing and noticed accordingly. The public hearings shall consist of an afternoon session and an evening session. Commission staff will work with Xcel, the parties, and the Office of Administrative Hearings to determine exact dates and locations of the Twin Cities Metro-area public hearings and draft the necessary notices.

6. A second prehearing conference will be held, if needed, to address preliminary matters in advance of the evidentiary hearing. The date and time of that conference will be announced and the location will be the Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101. Other matters may be addressed as needed and telephone conferences may be scheduled to resolve these matters.

PROCEDURE

7. The Rules of the Office of Administrative Hearings govern the conduct of the hearings and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed. To the extent that they are not superceded by the Rules of the Office of Administrative Hearings, the Commission's Rules of Practice (Minn. Rules 7829.0100 to 7829.3200) also apply to this proceeding.

FILING OF DOCUMENTS

8. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.
9. All documents filed, including prefiled testimony, **but excluding information requests and responses**, shall be filed as follows:
 - a. Prior to the issuance of the Report of the Administrative Law Judge, the original document and one copy shall be delivered or mailed to:

Administrative Law Judge Steve M. Mihalchick
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138
 - b. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.
 - c. Copies of all documents shall be served on the persons listed on the attached service list, in the number indicated. An electronic copy, where

possible, shall also be sent by email to persons whose email address is provided on the service list. The list will be revised as necessary by the Office of Administrative Hearings. Parties may designate multiple recipients of documents sent by email. Service shall be made according to the most current service list provided to the parties by the Office of Administrative Hearings.

- d. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed to the Office of Administrative Hearings or delivered to the Executive Secretary of the Commission. Filings to the Administrative Law Judge may be accomplished by email, sent to Steve.Mihalchick@state.mn.us, or by facsimile transmission, facsimile number 612-349-2665. Any filing sent by email or facsimile transmission will be followed by a hard copy.
 - e. Proof of service shall be filed with each filed document or within three business days thereafter.
10. One copy of any document or information filed with or supplied to the Commission or the Commission staff shall be served upon every party.

DISCOVERY

11. All requests for information shall be made in writing, or electronically followed by writing, to the person from whom the information is sought, with a copy of the request mailed to all parties of record. No such requests shall be provided to the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within eight business days after receipt of the request, unless the requesting party agrees to provide additional time. There shall be a continuing obligation to update and supplement information responses. The information need not be supplied as a matter of course to all other parties unless specifically requested by a party. Information requests or responses received after 4:00 p.m. on business days or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.
12. In the event the information cannot be supplied within eight business days, the responding party shall notify the requesting party within four business days of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Notice of such a motion should be made by email if possible and may be made be heard by telephone conference between the Administrative Law Judge and affected parties.

13. Parties asked to provide "Confidential Information" may require the requesting party to comply with the terms of a Protective Agreement and Order in this matter. Xcel and the parties may submit drafts of suitable documents for adoption as the Protective Agreement and Order in this matter.
14. Further discovery may be had in accordance with Minn. Rules 1400.6700 to 1400.6900 insofar as those provisions do not alter the special process for this proceeding established by this Order.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

15. Prefiled testimony shall be marked and received as exhibits. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties by email no later than three days before the evidentiary hearing starts.
16. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct or rebuttal evidence shall not be offered in rebuttal or surrebuttal testimony and exhibits.
17. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearings shall be: Xcel, any intervenors (in order of intervention), and the Department.

EXAMINATION OF WITNESSES

18. Witnesses shall be allowed ten minutes to summarize their prefiled testimony.
19. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.
20. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states by motion its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties according to the schedule set forth above. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

This Order is effective immediately. Any modification to this Order will be made by the Administrative Law Judge, for cause.

Dated this 9th day of June, 2005.

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge